

§ 28.27

could be relied on, and its requirements would be satisfied if samples of the blood were preserved sufficient to permit future DNA testing. Preserving such samples would dispense with any need under section 3600A to retain the vehicle itself or larger portions thereof.

§ 28.27 Non-preemption of other requirements.

Section 3600A's requirement to preserve biological evidence applies cumulatively with other evidence retention requirements. It does not preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

§ 28.28 Sanctions for violations.

(a) *Disciplinary sanctions.* Violations of section 3600A or of this subpart by Government employees shall be subject to the disciplinary sanctions authorized by the rules or policies of their employing agencies for violations of statutory or regulatory requirements.

(b) *Criminal sanctions.* Violations of section 3600A may also be subject to criminal sanctions as prescribed in subsection (f) of that section. Section 3600A(f) makes it a felony offense, punishable by up to five years of imprisonment, for anyone to knowingly and intentionally destroy, alter, or tamper with biological evidence that is required to be preserved under section 3600A with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding.

(c) *No effect on validity of convictions.* Section 3600A's requirements are enforceable through the disciplinary sanctions and criminal sanctions described in paragraphs (a) and (b) of this section. A failure to preserve biological evidence as required by section 3600A does not provide a basis for relief in any postconviction proceeding.

PART 29—MOTOR VEHICLE THEFT PREVENTION ACT REGULATIONS

Sec.

29.1 Purpose.

29.2 Definitions.

28 CFR Ch. I (7–1–23 Edition)

29.3 Administration by the Bureau of Justice Assistance.

29.4 Election to participate by states and localities.

29.5 Notification of law enforcement officials.

29.6 Limited participation by states and localities permitted.

29.7 Withdrawal from the program by states and localities.

29.8 Motor vehicle owner participation.

29.9 Motor vehicles for hire.

29.10 Owner withdrawal from the program.

29.11 Sale or other transfer of an enrolled vehicle.

29.12 Specified conditions under which stops may be authorized.

29.13 No new conditions without consent.

AUTHORITY: 28 U.S.C. 509, 510; 42 U.S.C. 14171.

SOURCE: 61 FR 40725, Aug. 6, 1996, unless otherwise noted.

§ 29.1 Purpose.

(a) The purpose of this part is to implement the Motor Vehicle Theft Prevention Act, 42 U.S.C. 14171, which requires the Attorney General to develop, in cooperation with the states, a national voluntary motor vehicle theft prevention program. The program will be implemented by states and localities, at their sole option.

(b) Under this program, individual motor vehicle owners voluntarily sign a consent form in which the owner

(1) Indicates that the identified vehicle is not normally operated under certain specified conditions and

(2) Agrees to display a program decal or license plate on the vehicle and to permit law enforcement officials in any jurisdiction to stop the motor vehicle if it is being operated under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(c) The regulations set forth in this part establish the conditions under which an owner may consent to having his or her vehicle stopped and the manner in which a State or locality may elect to participate.

§ 29.2 Definitions.

For the purposes of this part:

(a) *The Act* or *the MVTPA* means the Motor Vehicle Theft Prevention Act.

(b) *Owner* means the person or persons whose name(s) appear(s) on the

Department of Justice

§ 29.8

certificate of title or to whom the car is registered. In the instance of a new vehicle awaiting sale or lease or in the instance of a used vehicle where the title has been assigned to a dealership, the term "owner" shall be construed to mean new and used automobile dealerships.

(c) *The Program* refers to the National Voluntary Motor Vehicle Theft Prevention Program implemented pursuant to the Motor Vehicle Prevention Act.

§ 29.3 Administration by the Bureau of Justice Assistance.

The Director of the Bureau of Justice Assistance shall administer this Program and shall issue guidelines governing the operational aspects of it, including the design and production of a standardized, universally recognizable MVTPA reflective decal, as well as model consent and registration forms.

§ 29.4 Election to participate by states and localities.

(a) Any State or locality that wishes to participate in the program shall register with the BJA and request program enrollment materials. Registration forms will be available upon request. Participation in the program is wholly voluntary on the part of the State or locality.

(b) By electing to participate in the program, a State or locality agrees to do the following:

(1) Make program enrollment materials, including consent forms, available to interested motor vehicle owners;

(2) Collect completed consent forms;

(3) Provide enrolled motor vehicle owners with the decal(s), and license plate(s) applicable to their program condition or conditions and instructions governing program participation;

(4) Take the necessary steps to authorize law enforcement officials to stop motor vehicles enrolled in the program; and

(5) Comply with any other regulation(s) or guideline(s) governing participation in this program.

§ 29.5 Notification of law enforcement officials.

In addition to the actions enumerated in § 29.4(b), as a condition of par-

ticipating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials under its jurisdiction are familiar with the program and with the conditions under which motor vehicles may be stopped.

§ 29.6 Limited participation by states and localities permitted.

A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

§ 29.7 Withdrawal from the program by states and localities.

Any participating State or locality may withdraw from the program at any time by sending written notification to BJA and by notifying participating owners individually by mail of the decision to withdraw.

§ 29.8 Motor vehicle owner participation.

In order to participate in this program, the owner(s) of a motor vehicle must sign a program consent form and register with a participating State or locality. If the vehicle is registered to more than one person, both owners must sign the consent form. By enrolling in the federal program, the owner(s) of the motor vehicle—

(a) State(s) that the vehicle is not normally operated under the specified conditions; and

(b) Agree(s) to:

(1) Display the program decals or devices on the owner's vehicle;

(2) Permit law enforcement officials in any State or locality to stop the motor vehicle if the vehicle is being operated under the specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner;

(3) Expressly advise any borrower of the vehicle of the existence of this agreement, and that such user will be subject to being stopped by law enforcement officials if the vehicle is being operated under the specified condition(s) even if the officials have no other basis for believing the vehicle is being operated unlawfully; and

§ 29.9

(4) Comply with any other regulation(s) or guideline(s) governing participation in this program.

§ 29.9 Motor vehicles for hire.

(a) Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall notify the person to whom the motor vehicle is rented or leased about the program, prior to transferring possession of the vehicle.

(b) The notice required by this section shall be printed in bold type in the rental or lease agreement, and on the envelope in which the rental agreement is placed. The notice provision in the rental or lease agreement must utilize a larger font than the standard type in the agreement. The notice must state that the motor vehicle may be stopped by law enforcement officials if it is operated under the conditions specified by the program in which the car is enrolled even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(c) Failure to provide the notice required by this section to a renter or lessee may result in the assessment of a civil penalty by the Assistant Attorney General, Civil Division, or his or her designee, of an amount not to exceed \$5,000. No penalty shall be assessed unless the person charged has been given notice and an opportunity for a hearing of such charge.

§ 29.10 Owner withdrawal from the program.

An owner may withdraw from the program at any time by completely removing the program decal and changing the license plate if necessary. The owner is also encouraged to notify the participating agency in writing of such withdrawal.

§ 29.11 Sale or other transfer of an enrolled vehicle.

Upon the transferral of ownership of an enrolled vehicle, the transferring owner must completely remove the program decals, change the license plate(s) if necessary, and is encouraged to notify the participating agency in writing of the transfer of ownership of the vehicle.

28 CFR Ch. I (7–1–23 Edition)

§ 29.12 Specified conditions under which stops may be authorized.

A motor vehicle owner may voluntarily enroll his or her vehicle(s) and give written consent to law enforcement official to stop the vehicle if it is being operated under any or all the conditions set forth in this section. For each condition, the owner(s) must grant consent and affix a separate decal, device, or license plate.

(a) *Time.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it is being operated between the hours of 1:00 AM and 5:00 AM. By enrolling in a program with this condition, the owner must state that the vehicle is not normally operated between the specified hours, and that the owner understands that the operation of the vehicle between those hours provides sufficient grounds for a law enforcement officer to reasonably believe that the vehicle is not being operated by or with the consent of the owner, even if the law enforcement official has no other basis for believing that the vehicle is being operated unlawfully.

(b) *Border crossing or port entry.* A motor vehicle owner may authorize law enforcement officers to stop the enrolled vehicle if it crosses, is about to cross or is about to be transported across a United States land border, or if it enters a United States port. For purposes of this section, the phrase “about to cross a United States land border” means the vehicle is operated or transported within one mile of a United States land border. Participating States or localities may implement this provision in accordance with local conditions, provided that a participating State or locality may not extend the applicable geographic area beyond one mile from the United States land border. By enrolling in a program with this condition, the owner must state that the vehicle is not normally driven across a border or into a port, and that the owner understands that the operation or transport of the vehicle within a mile of a United States land border or into a port provides sufficient grounds for a law enforcement officer to believe that the vehicle is not being operated by or with the consent of the owner even if the

Department of Justice

§ 30.3

law enforcement officer has no other basis for believing that the vehicle is being operated unlawfully.

§ 29.13 No new conditions without consent.

After the program has begun, new conditions under which a vehicle may be stopped may only be added to an existing program if the owner consents to the new condition or conditions.

PART 30—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF JUSTICE PROGRAMS AND ACTIVITIES

Sec.

- 30.1 What is the purpose of these regulations?
- 30.2 What definitions apply to these regulations?
- 30.3 What programs and activities of the Department are subject to these regulations?
- 30.4 What are the Attorney General's general responsibilities under the Order?
- 30.5 What is the Attorney General's obligation with respect to Federal interagency coordination?
- 30.6 What procedures apply to the selection of programs and activities under these regulations?
- 30.7 How does the Attorney General communicate with state and local officials concerning the Department's programs and activities?
- 30.8 How does the Attorney General provide an opportunity to comment on proposed Federal financial assistance and direct Federal development?
- 30.9 How does the Attorney General receive and respond to comments?
- 30.10 How does the Attorney General make efforts to accommodate intergovernmental concerns?
- 30.11 What are the Attorney General's obligations in interstate situations?
- 30.12 How may a state simplify, consolidate, or substitute federally required state plans?
- 30.13 May the Attorney General waive any provision of these regulations?

AUTHORITY: Executive Order 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887); Sec. 401 of the Intergovernmental Cooperation Act of 1968 as amended (31 U.S.C. 6506); Sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966 as amended (42 U.S.C. 3334).

SOURCE: Order No. 1018-83, 48 FR 29246, June 24, 1983, unless otherwise noted.

§ 30.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982 and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional, and local coordination for review of proposed federal financial assistance and direct federal development.

(c) These regulations are intended to aid the internal management of the Department, and are not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 30.2 What definitions apply to these regulations?

Department means the U.S. Department of Justice.

Order means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983 and titled "Intergovernmental Review of Federal Programs."

Attorney General means the Attorney General or an official or employee of the Department acting for the Attorney General under a delegation of authority.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 30.3 What programs and activities of the Department are subject to these regulations?

The Attorney General publishes in the FEDERAL REGISTER a list of the Department's programs and activities that are subject to these regulations and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act.